

REMARKS/ARGUMENTS

Applicants respectfully request reconsideration and allowance of this application in view of the following amendments and comments. Claims 15-26 were pending. By this Amendment, claims 15 and 24 have been amended. No new matter has been added. Accordingly, claims 15-26 are pending.

Objection to the Specification:

The Examiner objected to the specification, specifically, that there are two sets of empty parenthesis in the figure description for Figure 3. In response, applicants have amended the specification which now do not contain empty parenthesis. Applicants, therefore, respectfully request that the Examiner reconsider and withdraw this objection.

Objection to the Drawings:

The Examiner objected to the drawings because they are in German. In response, applicants have replaced the figures with new figures in the “Amendments to the Drawings.” Applicants, therefore, respectfully request that the Examiner reconsider and withdraw this objection.

Objection to claim 24

The Examiner objected to claim 24 as being in improper dependent form. In response, applicants have amended claim 24 to be in proper dependent form. Applicants, therefore, respectfully request that the Examiner reconsider and withdraw this objection.

Rejection of claims 15-18, 21, and 23-26 under 35 USC § 102(b) as being anticipated by Nabel et al.

The Examiner maintained the rejection of claims 15-18, 21, and 23-26 as being anticipated by Nabel et al. In response, applicants assert that Nabel does not teach every element of the claimed invention. For example, applicants have amended independent claim 15 which now has the limitation, “the stable transfer of genetic material results in enhanced expression levels of the second polynucleotide.” Claims 16-17, 21, and 23-26 either directly or indirectly depends on claim 15. Nabel fails to suggest or teach the stable transfer of genetic material resulting in enhanced expression levels of the second polynucleotide. Thus, applicants respectfully request that the Examiner reconsider and withdraw this rejection.

Rejection of claims 15, 19, 20, and 24-26 under 35 USC § 102(b) as being anticipated by Mudryj et al.

The Examiner maintained the rejection of claims 15, 19, 20, and 24-26 as being anticipated by Mudryj et al. In response, applicants assert that Mudryj et al does not teach every element of the claimed invention. For example, applicants have amended independent claim 15 which now has the limitation, “the stable transfer of genetic material results in enhanced expression levels of the second polynucleotide.” Claims 19-20 and 24-26 either directly or indirectly depends on claim 15. Mudryj fails to suggest or teach the stable transfer of genetic material resulting in enhanced expression levels of the second polynucleotide. Thus, applicants respectfully request that the Examiner reconsider and withdraw this rejection.

Rejection of claims 15-26 under 35 USC § 112, first paragraph as failing to comply with the enablement requirement.

The Examiner maintained the rejection of claims 15-26 as failing to comply with the enablement requirement. In response, applicants assert that the Examiner has not carried her burden of proof because the Examiner has not specifically indicated why the scope of cells should be limited and why the specification does not provide guidance to persons in the art, sufficient enough to practice the invention. Applicants, therefore, respectfully request that the Examiner reconsider and withdraw this rejection.

Rejection of claims 20, 22, 24, and 26 under 35 USC § 112, first paragraph as failing to comply with the written description requirement.

The Examiner maintained the rejection of claims 20, 22, 24, and 26 as failing to comply with the written description requirement. In response, applicants have amended claims 24 which now define the mammalian cell as tumorigenic. In addition, one skilled in the art would know that the terms “cultured cells, primary cells, and in vivo,” encompasses mammalian cells, rodent cells. Furthermore, applicants believe that the examiner has not met the burden of presenting evidence why persons skilled in the art would not recognize in an applicant’s disclosure a description of the invention defined by the claims. Applicants, therefore, respectfully request that the Examiner reconsider and withdraw this rejection.


CONDITIONAL PETITION FOR EXTENSION OF TIME

If entry and consideration of the amendments above requires an extension of time, Applicants respectfully request that this be considered a petition therefor. The Assistant Commissioner is authorized to charge any fee(s) due in this connection to Deposit Account No. 14-1263.

ADDITIONAL FEE

Please charge any insufficiency of fees, or credit any excess, to Deposit Account No. 14-1263.

Respectfully submitted,
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AMENDMENTS TO THE DRAWINGS:

Please replace Figures 1-3 with new Figures 1-3 which are attached.